

**REMARKS**

This is in response to the non-final Official Action currently outstanding with respect to the above-identified application.

Claims 1-10 were present in this application as of the time of the issuance of the currently outstanding Official Action. By the foregoing Amendment, Claims 1, 9 and 10 have been amended. Claims 3, 4, 7 and 8 have been canceled, without prejudice. Further, New Claims 11-18 have been added. No claims have been withdrawn. No new matter has been added to this application by virtue of the amendment and/or addition of any of the claims. Accordingly, upon the entry of the foregoing Amendment, Claims 1-2, 5-6, and 9-18 as hereinabove presented will constitute the claims under active prosecution in this application.

A version of the claims as they will stand upon the entry of this amendment is set forth above as required by the Rules.

More specifically, it is noted that in the currently outstanding Official Action, the Examiner has:

1. Acknowledged Applicant's claim for foreign priority under 35 USC 119 (a) – (d) or (f), and confirmed that the required copy of the priority documents have been received by the United States Patent and Trademark Office;
2. Provided Applicant with a Notice of References cited;

3. Acknowledged Applicant's Information Disclosure Statement of 30 March 2005 by providing Applicant with copies of the Form PTO/SB/08a/b that accompanied that Information Disclosure Statement duly signed, dated and initialed by the Examiner to confirm his consideration of the references listed therein;
4. Failed to reconfirm that the drawings filed with this application are Acceptable; - **Applicants believe that in light of the previous allowance of this application prior to the filing of the last Information Disclosure Statement that the drawings are acceptable, however, for the sake of completeness of the record, Applicants request that the Examiner reconfirm that fact in response to this communication.**
5. Rejected Claims 1-2, 5-6 and 9-10 under 35 USC 102(e) as being anticipated by the Shimizu, et al reference (US 6,208,601);
6. Objected to Claims 3, 4, 7 and 8 as being dependent upon rejected base claims, but indicated that those claims would be allowable if rewritten in independent for including all of the limitations of the respective base claims and any intervening claims.

Further comment concerning items 1 - 4 above is not deemed to be necessary in these Remarks.

With respect to item 5-6 above, the Examiner has taken the position that the Shimizu et al reference constitutes a complete anticipation of Claims 1, 2, 5, 6, 9 and 10 of the present application. The basis of the Examiner's position rests upon his construction of the present claim limitation directed to "a change in a factor causing fluctuation in effective power" as reading on a change in disk tilt as detected by the detection means 234 in the Shimizu, et al reference. However, the Examiner has indicated that "an amount of shift, in an optical disk radial direction, of an objective lens that focuses a laser on an active layer of the optical disk" as constituting the change factor previously claimed would be allowable (i.e., Claims 3 and 4 would be allowable if stated in independent form including all of the limitations of their respective base claims and any intervening claims).

Applicant agrees that the Shimizu et al reference discloses that the tilt amount of an optical disk is detected, and that based upon the results of that detection, the emitted power is adjusted.

Accordingly, by the foregoing Amendment, Claims 3 and 4 have been canceled, without prejudice, and the subject matter thereof has been incorporated into independent Claim 1. Claims 7 and 8 that depended from Claims 3 and 4 also have been canceled, without prejudice, in favor of Claims 5 and 6 that state the same subject matter in dependent form from Claims 1 and 2 respectively. Claim 2 has not been amended because it is dependent from Claim 1 and hence the amendment of Claim 1 carries the subject matter of Claim 4 into Claim 2.

Further, independent method Claim 9 has been amended in a manner similar to the amendment of independent apparatus Claim 1. Applicants respectfully submit that as so amended Claim 9 is patentable for the same reasons as amended Claim 1 is patentable.

Still further, Claim 10 has been amended so as to delete the tilt of an objective lens as a factor causing a fluctuation of laser power to which that claim is directed. Hence, Claim 10 is now directed to the objective lens shift factor, that the Examiner has indicated to be allowable subject matter, in addition to servo residual error factor. Applicants respectfully submit that neither of these factors causing fluctuations in effective laser power that may be detected and utilized in the correction/adjustment of the laser power level are disclosed, taught or suggested in the prior art.

Accordingly, Applicants respectfully submit that in view of the foregoing discussion and the Examiner's indication of the allowability of the subject matter of Claims 3 and 4 if rewritten in independent form, Claims 1, 2, 5 and 6 as hereinabove amended now are in condition for allowance. Further, Applicants respectfully submit that the foregoing amendments of Claims 9 and 10 are comparable to the amendment of Claim 1 that the Examiner indicated to be allowable in the currently outstanding Official Action (i.e., the tilt of the objective lens is removed as one of the factors utilized by the present invention in favor of the extent of radial shift of the objective lens and/or servo residual error that are not disclosed or suggested in the prior art in the context of the present invention). A decision so holding in response to this communication is respectfully requested.

In addition, Applicants respectfully note that in the present invention the following steps are carried out:

1. In a test disk, by positively changing an amount of change in a factor (the amount of shift at the objective lens, the servo residual error, or some other factor) causing a fluctuation in effective laser power, an optimum recording laser power is obtained according to each change based upon the fluctuation factor (see, Fig. 2).
2. In a recording disk, an optimum recording power is obtained with respect to a certain factor causing fluctuation of effective laser power (i.e, the amount of shift at the objective lens, the servo residual error, or some other factor).
3. Based upon items 1 and 2 above, an optimum recording effective laser power is obtained according to each factor causing a fluctuation in effective laser power.
4. At the time of writing to a recording disk, a fluctuation factor is detected and an optimum recording power is obtained and set according to the fluctuation factors.

By virtue of the foregoing steps, it is possible in the present invention to write a recording disk with an optimum effective recording laser power. As a result, optical disks suited for high-capacity, high-density applications may be realized. Further, these results do not depend for their novelty or patentability upon the particular factors whose change causes fluctuation in the effective laser power, but rather depend upon the process by which the desired optimum effective laser power is achieved. Applicants respectfully submit that the features of the present invention (specifically including the creation of a stored database of correction data based upon the impact of fluctuation factors on a test disk) which are now included in the claims of this application in the form of new claims 11-18 are not disclosed, taught or suggested by the Shimizu et al reference or any other reference of record in the present prosecution.

Accordingly, Applicants respectfully request consideration and allowance of new claims 11-18 in response to this communication.

In summary, Applicant respectfully submits that all of the claims that will be present in this application after the entry of the foregoing Amendment are in condition for allowance. Consequently, Applicant respectfully requests that the rejections set forth in the currently outstanding Official Action be withdrawn in view of the foregoing Amendment, that new claims 11-18 be considered and that a decision allowing this application as hereinabove amended be issued in response to this communication.

Finally, Applicants believe that additional fees are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. **04-1105**, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

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